

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

PERRY MACKALL,

Plaintiff,

v.

Case Number 05-CV-10103
Honorable David M. Lawson

R. SMITH, *et al.*,

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION, DISMISSING PLAINTIFF'S CLAIM FOR FAILURE TO
STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED**

On April 19, 2005, the Court referred this case to United States Magistrate Judge Charles E. Binder for case management pursuant to 28 U.S.C. § 636(b). The magistrate judge issued his report on July 28, 2005, recommending that the plaintiff's complaint be dismissed for failure to state a claim upon which relief may be granted. The plaintiff's failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motions. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [dkt # 8] is **ADOPTED**.

It is further **ORDERED** that the complaint is **DISMISSED WITH PREJUDICE**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: August 17, 2005

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on August 17, 2005.

s/Tracy A. Jacobs

TRACY A. JACOBS